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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,137	04/04/2006	Rudolf Fiegler	30071/41415	7719
4743 7590 04/30/2008 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER NICHOLSON III, LESLIE AUGUST	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 04/30/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,137

Applicant(s)

FIEGLER, RUDOLF

Examiner

LESLIE A. NICHOLSON III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Due to Applicant's amendments, all previous claim objections and 35 USC 112 rejections are hereby withdrawn.

Applicant's arguments filed 2/7/2008 have been fully considered but they are not persuasive. Applicant argues Grilliat does not disclose the treatment station carousel conveying the objects again to the intake station or back to the intake station as recited in claims 1 or 6. Regarding claim 1, see ¶13. Claim 6 simply recites a capability of the rotating conveyor to convey objects back to the intake station. The claim is directed towards a device and not to a method or process.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6,9-11,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Grilliat FR 2,576,003 A1.

Grilliat discloses a device and process for the handling of objects, comprising a rotating conveyor (7) provided with conveying stations (n,a), on which an intake station (4) and a discharge station (6) are arranged, a section (area around 7) in the direction of

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transport between the intake (4) and the discharge stations (6), wherein the multiple through-passage section has a length that corresponds to less than half the number of conveying stations of the rotating conveyor (3, see Figure 1), wherein the discharge station (6) is in the direction of transport, positioned behind the intake station (4) and directly adjacent to the intake station (4), and a processing device (abstract) for the containers is positioned in the multiple through-passage section, wherein the intake station (4) has an intake star wheel, an intake star wheel (4) supplied by a helical separating unit (11), a carousel (3) with an odd number of conveying stations, a discharge star wheel (6), whereby the discharge star wheel (6) is positioned, in the direction of transport, adjacent to the intake star wheel (4), whereby a double through-passage section (area around 7) the active conveying stations of which have double the spacing distance of the conveying stations of the rotating conveyor (see Figure 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5,7,8,14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grilliat FR 2,576,003 A1.

Grilliat as disclosed above, fails to show wherein only every second conveying station of the rotating conveyors available upon one rotation of the rotating conveyor through the intake station, and only every second conveying station of the rotating conveyor, displaced relative to the intake station by one conveying station, can be emptied by the discharge station, wherein the rotating conveyor has an odd number of conveying stations.

It would be obvious to one having ordinary skill in the art at the time the invention was made to modify the process by which conveying stations interact with the intake and discharge stations, the number of conveying stations and the number of conveying stations depending on the user's needs and requirements.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grilliat FR 2,576,003 A1 in view of Humele USP 6,520,318.

Grilliat, as disclosed above, fails to show a testing device for the repeated, temporally spaced determination of parameters.

Humele does disclose a testing device (sensor 39) for the repeated, temporally spaced determination of parameters.

It would be obvious to one having ordinary skill in the art at the time the invention was made to add Humele's sensor to Grilliat's invention in order to provide for article presence, counting, label reading etc.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LESLIE NICHOLSON III** whose telephone number is (571)272-5487. The examiner can normally be reached on mon-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 5712726911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. N./
Examiner, Art Unit 3651
4/24/2008

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651